wm

FILED
OCT 25 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA '07 MJ 8873

UNITED STATES OF AMERICA Plaintiff, v. Michael Curtis KOZY(1), Elizabeth Ann LYONS-Hines(2), Defendants.	Magistrate Case No.: COMPLAINT FOR VIOLATION OF 21 U.S.C. § 952 and 960 Importation of a Controlled Substance (Felony)

The undersigned complainant being duly sworn states:

That on or about October 24, 2007, within the Southern District of California, defendants Michael Curtis KOZY and Elizabeth Ann LYONS-Hines, did knowingly and intentionally import approximately 53.34 kilograms (117.35 pounds) of marijuana, a Schedule I Controlled Substance, into the United States from a place outside thereof, in violation of Title 21, United States Code, Section 952 and 960.

The complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

Chad N. Worgen Special Agent
U.S. Immigration & Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 25th DAY OF OCTOBER 2007.

Pete C. Lewis
UNITED STATES MAGISTRATE JUDGE

UNITED STATES OF AMERICA
v.
Michael Curtis KOZY (1)
Elizabeth Ann LYONS-Hines (2)

STATEMENT OF FACTS

This complaint is based on the reports, documents, and notes furnished to U. S. Immigration and Customs Enforcement Special Agent Chad N. Worgen.

On October 24, 2007, at approximately 2141 hours, Michael Curtis KOZY entered the U.S. from the Republic of Mexico via the Calexico East Port of Entry, while driving a white colored Ford Focus. Along with KOZY was a sole passenger identified as Elizabeth Ann LYONS-Hines.

Customs & Border Protection Officer (CBPO) G. Baltazar was conducting primary inspections on lane # 4. Both KOZY and LYONS stated they were U.S. citizens by virtue of birth. CBPO Baltazar received a negative oral Customs declaration from KOZY. During questioning, CBPO Baltazar could smell a strong odor of gasoline emitting from the vehicle. KOZY stated that he was the owner of the vehicle, but it was not registered in his name, and he was in the process of registering the vehicle under his name. During cursory inspection, CBPO Baltazar observed gasoline leaking from the gas tank. When questioned, KOZY stated that he did not perform any maintenance on his vehicle. CBPO Baltazar referred KOZY, LYONS, and the vehicle into secondary for a more intensive inspection.

Customs and Border Protection Supervisor (CBPS) F. Medina was performing secondary inspectional duties and observed KOZY, LYONS, and the vehicle enter the secondary lot. CBPS Medina escorted KOZY and LYONS from the vehicle. Medina requested Canine Enforcement Officer (CEO) B. Pyburn to screen the vehicle with his canine. CEO Pyburn informed CBPS Medina that his canine alerted to the dash.

WMC

The vehicle was turned over to CBPO M. Hernandez for further inspection. CBPO Hernandez received a negative oral Customs declaration from KOZY. During an intensive inspection of the dash, CBPO Hernandez discovered numerous packages within the dash. CBPO Hernandez probed one of the packages, and it produced a green leafy substance that tested positive for marijuana. A total of forty-six packages were extracted from the vehicle, with a total weight of 53.34 kilograms (117.35 pounds) of marijuana.

KOZY and LYONS were placed under arrest for violation of 21 United States Code 952 and 960. Special Agent (SA) Chad N. Worgen advised both KOZY and LYONS of their constitutional rights pursuant Miranda, in which they both acknowledged and waived. KOZY and LYONS were interviewed and provided contradictory statements.

KOZY stated to SA Worgen that he had no knowledge that marijuana was concealed within the vehicle. KOZY stated that he had been making payments on the vehicle for approximately a month and a half. KOZY stated that three days ago he ultimately finished paying off the vehicle. KOZY stated he picked the vehicle up at a convenience store located in Calexico, California. KOZY stated that on October 24, 2007, at approximately 1800 hours, he and LYONS drove to Mexicali, Mexico with the vehicle and ate some tacos. KOZY stated at approximately 2200 hours, he and LYONS decided to cross the border, and drive back to Bakersfield, California.

LYONS stated to SA Worgen that she had no knowledge marijuana was concealed within the vehicle. LYONS admitted during the interview that she is involved with narcotics. LYONS stated three days ago she consumed cocaine. LYONS stated that she consumed a large amount of cocaine. LYONS stated she and KOZY are temporarily unemployed and homeless. LYONS stated that they have been living in a parking lot in Mexicali, Mexico for the last two days. LYONS stated that between 2000 and 2100 hours, she and KOZY were both present during the time the narcotic wmc

smuggling vehicle was picked up. LYONS stated that was the first time she had ever seen the vehicle.

Both KOZY and LYONS stated that they smelled a strong odor of gasoline emitting from the vehicle, but neither ever performed any routine checks or maintenance. Both KOZY and LYONS also admitted that they might have been used as a decoy, allowing another narcotics smuggling vehicle to cross at the same port at approximately the same time.